

Message Text

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FM AMEMBASSY THE HAGUE
TO SECDEF WASHDC//ASD/ISA//IMMEDIATE
INFO SECSTATE WASHDC IMMEDIATE 2696

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FROM ODC

FOR ASD/ISA, DSAA/TD

E.O. 11652: GDS
TAGS MARR
SUBJECT: NETHERLANDS-AMERICAN MOU DRAFT TEXT

REF: SECDEF 232230Z MAY 78

THE NETHERLANDS DRAFT OF THE MOU IS AS FOLLOWS:

QUOTE

1. NETHERLANDS CONCEPT TEXT:

PREAMBLE.

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE
GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS, HEREINAFTER
REFERRED TO AS THE GOVERNMENTS, DULY REPRESENTED BY THEIR
MINISTERS OF DEFENCE.

INTENDING TO INCREASE THEIR RESPECTIVE DEFENCE CAPABILITIES
THROUGH MORE EFFICIENT COOPERATION IN THE FIELD OF
RESEARCH AND DEVELOPMENT, PRODUCTION AND PROCUREMENT, IN
ORDER TO:

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-MAKE THE MOST COST-EFFECTIVE AND RATIONAL USE OF THE
RESOURCES AVAILABLE FOR DEFENCE: AND
-ENSURE THE WIDEST POSSIBLE USE OF COMMON, AND IF THIS
IS NOT FEASIBLE, AT ANY RATE OF INTEROPERABLE, EQUIP-
MENT: NAD
-DEVELOP AND MAINTAIN AN ADVANCED INDUSTRIAL AND

TECHNOLOGICAL CAPABILITY FOR THE NORTH ATLANTIC ALLIANCE, BOTH IN EUROPE AS WELL AS THE NORTH AMERICAN CONTINENT, AND PARTICULARLY WITH RESPECT TO THE PARTIES TO THIS AGREEMENT.

RECALLING THAT THEY HAD IN AGREEING, AS MEMBERS OF THE ALLIANCE, TO MAXIMUM COOPERATION IN PROCUREMENT, RECOGNIZED THAT: "THE PRIME AIM SHOULD BE TO GET THE BEST VALUE FOR DEFENCE EXPENDITURE; BUT IT WILL BE IMPORTANT ALSO THAT ALL PARTICIPATING COUNTRIES SHOULD HAVE A FAIR SHARE IN THE ECONOMIC, TECHNOLOGICAL AND INDUSTRIAL ADVANTAGES OF COLLABORATION, NOT NECESSARILY ON A CASE BY CASE BASIS, BUT IN THE CONTEXT OF OVERALL EFFORTS BY MEANS OF SOME BROADLY-BASED EQUALISING ARRANGEMENTS IN DEFENCE PROCUREMENT" (ANNEX A TO C-M(73) 51(REVISED)).

SEEKING TO IMPROVE THE BALANCE IN MUTUAL DEFENCE PROCUREMENT AND TO STRENGTHEN THEIR MILITARY CAPABILITY AS WELL AS THEIR INDUSTRIAL AND TECHNOLOGICAL CAPABILITY THROUGH THE FURTHER MUTUAL ACQUISITION OF STANDARD OR INTEROPERABLE EQUIPMENT.

HAVE ENTERED INTO THIS MEMORANDUM OF UNDERSTANDING IN ORDER TO ACHIEVE THE ABOVE AIMS.

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THE TWO GOVERNMENTS CONCLUDE THIS MEMORANDUM OF UNDERSTANDING TO STRENGTHEN THE NORTH ATLANTIC ALLIANCE. IN SO DOING, THE GOVERNMENTS ARE FULLY AWARE THAT THE INDEPENDENT EUROPEAN PROGRAM GROUP (IEPG) WANTS TO ENHANCE EQUIPMENT COLLABORATION BY MORE COMPREHENSIVE AND SYSTEMATIC ARRANGEMENTS AMONG THE INDIVIDUAL MEMBER NATIONS.

THE TWO GOVERNMENTS AGREE THAT THIS MEMORANDUM OF UNDERSTANDING SHOULD BE INCORPORATED IN THE LARGER CONTEXT OF THE COOPERATION BETWEEN EUROPE AND THE UNITED STATES WITHIN THE ALLIANCE.

ALL AGREEMENTS OR THE RELEVANT PROVISIONS OF SUCH AGREEMENTS BETWEEN THE EUROPEAN MEMBERS OF THE ALLIANCE, ACTING COLLECTIVELY THROUGH THE EUROPEAN PROGRAMME GROUP (IEPG) AND THE UNITED STATES OF AMERICA SHALL TAKE PREDENCE OVER THIS MEMORANDUM OF UNDERSTANDING, ASSUMING THAT THE NETHERLANDS IS A PARTY TO SUCH AGREEMENTS.

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FROM: ODC

FOR ASD/ISA, DSAA/TS

ARTICLE I.

PRINCIPLES GOVERNING RECIPROCAL DEFENCE COOPERATION.

1. BOTH GOVERNMENTS INTEND TO ACHIEVE AND MAINTAIN A LONG-TERM EQUAL BALANCE IN THEIR EXCHANGES IN TERMS OF THE VALUE OF CONTRACTS, AND COMPARABLE TECHNOLOGY. THIS EQUAL BALANCE SHALL BE ARRIVED AT PREFERABLY THROUGH THE RECIPROCAL PURCHASING OF DEFENCE-EQUIPMENT AND SERVICES AS WELL AS THROUGH CO-PRODUCTION OF DEFENCE-EQUIPMENT AND DEFENCE R & D COOPERATION.

TO THE EXTENT THAT IN THE IMPLEMENTATION OF THIS MOU IT WOULD BECOME CLEAR THAT AN EQUAL BALANCE WOULD BE DIFFICULT TO BE REALISED, THE PARTIES WILL CONSULT ABOUT THE PURCHASE OF NON-DEFENCE EQUIPMENT AND SERVICES OF A HIGH-TECHNOLOGICAL LEVEL, IN ORDER TO FULLY IMPLEMENT THIS MOU.

2. (SAME TEXT).

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3. THE TWO GOVERNMENTS WILL, GIVE THE FULLEST POSSIBLE CONSIDERATION TO ALL REQUEST FOR COOPERATIVE R AND D, AND

TO ALL REQUEST FOR PRODUCTION AND PROCUREMENT WHICH ARE INTENDED TO MAXIMIZE ALLIANCE STANDARDIZATION AND/OR INTEROPERABILITY.

4. THE TWO GOVERNMENTS SHALL, IN THE SPIRIT OF COOPERATION, MUTUALLY DETERMINE THE COUNTING PROCEDURES TO BE LAID DOWN IN AN ANNEX OF THIS MOU, THAT WILL APPLY TO ALL ITEMS UNDER THIS AGREEMENT (AND ASSOCIATED SERVICES INCLUDED IN A CONTRACT) PURCHASED BY THE TWO GOVERNMENTS OR THROUGH THEIR RELEVANT INDUSTRIES.

5. THE TWO GOVERNMENTS SHALL IN ORDER TO ARRIVE AT THE REQUIRED BALANCE IN THEIR EXCHANGES SELECT QUALIFIED DEFENCE ITEMS RESPECTIVELY SERVICES THAT ARE BEING OR HAVE BEEN DEVELOPED, PRODUCED RESPECTIVELY CAN BE PERFORMED IN THE OTHER COUNTRY TO MEET THEIR REQUIREMENTS, IN ACCORDANCE WITH THE PROCEDURES OF PARAGRAPH 8 BELOW. AS QUALIFIED DEFENCE ITEM OR SERVICE WILL BE REGARDED ANY ITEM OR SERVICE WHICH THE GOVERNMENTS MAY HAVE TO PROCURE IN THE PERFORMANCE OF THEIR DEFENCE TASKS.

6. EACH GOVERNMENT MAY PROPOSE TO THE OTHER ANY PARTICULAR ITEM OF EQUIPMENT OR SERVICE THAT MIGHT BE SUITABLE FOR SELECTION BY THE OTHER GOVERNMENT. INDICATIVE LISTS ARE TO BE PROVIDED IN ANNEXES TO BE ATTACHED TO THIS MEMORANDUM OF UNDERSTANDING. THESE LISTS WILL PERIODICALLY BE REVIEWED.

7. (SAME TEXT).

8. THE DETAILED IMPLEMENTING PROCEDURES, TO BE AGREED,
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WILL INCORPORATE THE FOLLOWING:

A. OFFERS OR PROPOSALS WILL BE EVALUATED WITHOUT APPLYING PRICE DIFFERENTIALS UNDER BUY NATIONAL LAWS AND REGULATIONS.

B. OFFERS OR PROPOSALS WILL BE EVALUATED WITHOUT THE COSTS OF IMPORT DUTIES OR OF DISCRIMINATORY LEVIES OR COSTS RELATED TO GOVERNMENT FURNISHED EQUIPMENT.

C. FULL CONSIDERATION WILL BE GIVEN TO ALL QUALIFIED INDUSTRIAL AND/OR GOVERNMENTAL SOURCES IN EACH OTHER'S COUNTRY IN ACCORDANCE WITH MUTUALLY AGREED POLICIES.

D. OFFERS OR PROPOSALS WILL BE REQUIRED TO SATISFY REQUIREMENTS OF THE PURCHASING GOVERNMENT FOR PERFORMANCE, QUALITY, DELIVERY AND COSTS.

9. (SEE TEXT PARA 11 US DRAFT).

10. AND 11. (SEE TEXT PARA 12 AND 13 US DRAFT).

12. ARRANGEMENTS AND PROCEDURES MAY, AT THE REQUEST OF THE PURCHASING GOVERNMENT, BE ESTABLISHED CONCERNING FOLLOW-ON LOGISTIC SUPPORT FOR ITEMS OF DEFENCE EQUIPMENT, PURCHASED PURSUANT TO THIS MEMORANDUM OF UNDERSTANDING. BOTH GOVERNMENTS WILL MAKE THESE DEFENCE LOGISTIC SYSTEMS AND RESOURCES AVAILABLE FOR THIS PURPOSE AS REQUIRED AND MUTUALLY AGREED.

WITH RESPECT TO ITEMS OF DEFENCE EQUIPMENT PURCHASED PURSUANT TO THIS MEMORANDUM OF UNDERSTANDING, THE TWO GOVERNMENTS WILL PRACTISE JOINT CONFIGURATION CONTROL TO THE MAXIMUM EXTENT POSSIBLE.

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FOR ASD/ISA, DSAA/TS

ARTICLE II.

IMPLEMENTING PROCEDURES.

(COMMENT RESERVED).

ARTICLE III.

INDUSTRY PARTICIPATION.

1. (SAME TEXT).

2. IMPLEMENTATION OF THIS MEMORANDUM OF UNDERSTANDING WILL INVOLVE FULL INDUSTRIAL PARTICIPATION. ACCORDINGLY,

THE GOVERNMENT WILL ARRANGE TO INFORM THEIR RESPECTIVE PROCUREMENT AND REQUIREMENTS OFFICES CONCERNING THE PRINCIPLES AND OBJECTIVES OF THIS MEMORANDUM OF UNDERSTANDING AS WELL AS OF THE INDICATIVE LISTS, REFERRED TO IN PARA I, 6 ABOVE.

NOTWITHSTANDING THE GOVERNMENTAL PROCEDURES TO FACILITATE IMPLEMENTATION IT WILL BE THE BASIC RESPONSIBILITY OF INDUSTRY IN EACH COUNTRY TO, IDENTIFY AND ADVISE ITS GOVERNMENT OF CAPABILITIES TO BRING INDUSTRIAL PARTICIPATION TO CONSUMMATION.

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ARTICLE IV.
SECURITY.

(COMMENT RESERVED).

ARTICLE V.
DURATION.

1. THIS MEMORANDUM OF UNDERSTANDING WILL REMAIN IN EFFECT FOR A TEN-YEAR PERIOD AND WILL BE CONTINUED EACH TIME FOR A FIVE-YEAR PERIOD, UNLESS THE GOVERNMENTS MUTUALLY DECIDE OTHERWISE.

2. IF, HOWEVER, EITHER GOVERNMENT CONSIDERS IT NECESSARY FOR COMPELLING NATIONAL REASONS TO DISCONTINUE ITS PARTICIPATION UNDER THIS MEMORANDUM OF UNDERSTANDING BEFORE THE END OF THE TEN-YEAR PERIOD, RESPECTIVELY FIVE-YEAR PERIOD, WRITTEN NOTIFICATION OF ITS INTENTION WILL BE GIVEN TO THE OTHER GOVERNMENT SIX MONTHS IN ADVANCE OF THE EFFECTIVE DATE OF DISCONTINUANCE. SUCH NOTIFICATION OF INTENT WOULD BE A MATTER OF IMMEDIATE CONSULTATION WITH THE OTHER GOVERNMENT TO ENABLE THE GOVERNMENT FULLY TO EVALUATE THE CONSEQUENCES OF SUCH TERMINATION AND, IN THE SPIRIT OF COOPERATION, TO TAKE SUCH ACTIONS AS NECESSARY TO ALLEVIATE PROBLEMS THAT MAY RESULT FROM THE TERMINATION. IN THIS CONNECTION, ALTHOUGH THE MEMORANDUM OF UNDERSTANDING MAY BE TERMINATED BY THE PARTIES, ANY CONTRACT ENTERED INTO CONSISTENT WITH THE TERMS OF THIS AGREEMENT SHALL CONTINUE IN EFFECT, UNLESS THE CONTRACT IS TERMINATED IN ACCORDANCE WITH ITS OWN TERMS.

ARTICLE VI.
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ADMINISTRATION.

1. AND 2. (COMMENT RESERVED).

3. AN ANNUAL UNITED STATES-NETHERLANDS STATEMENT OF THE CURRENT BALANCE, AND LONG-TERM TRENDS, OF R AND D COOPERATION AND PURCHASES BETWEEN THE TWO COUNTRIES WILL BE PREPARED ON A BASIS TO BE MUTUALLY AGREED. SUCH STATEMENT WILL TAKE ACCOUNT OF ANY UNITED STATES-NETHERLAND PURCHASES OF DEFENCE EQUIPMENT AND SERVICES AND RELATED OFFSET AGREEMENTS EFFECTED IN THE YEARS FROM 1973 ONWARDS AND WILL BE PERIODICALLY REVIEWED.

ARTICLE VII AND VIII.

(COMMENT RESERVED).

UNQUOTE.

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